

Sample Case #1: Home Oxygen

Instructions: Please read the case and without reviewing the accompanying assessment, try to determine how well the consultant addressed the four key elements that are essential and must be documented for a quality ethics consultation. Also, challenge yourself to identify (list) how the consultation could be improved before you review the accompanying evaluation.

We received a non-urgent consult request from NP NURSEPRACTITIONER about patient John Doe (home care outpatient).

Requestor's Description of Case:

Patient is on 5L/min of oxygen (O₂) continuously due to end stage COPD. He smokes 1-2ppd with his O₂ in place. He rationalizes this by "cupping the flame" and states there is no danger. He was burned in face previously while smoking with O₂ in place. He lives in an apartment building and there is concern of potential risk to other residents. Without O₂, patient can't survive. Patient refuses smoking cessation since he is "dying anyway."

She asked for help in understanding ethically justifiable options for how to proceed. The patient's attending physician has been notified about the request for ethics consultation.

Ethics Question:

Given that the treatment team is concerned that they should not provide oxygen to the patient for end stage COPD because the patient's smoking could lead to harm, but the patient believes he ought to be able to get O₂ and continue his life-style choice to smoke because he is dying, what decisions or actions are ethically justifiable?

The health record was reviewed and a face-to-face visit with the patient. Case information was provided by the patient, members of the home care team (nurse, physician) and respiratory therapist.

Consultation-specific Information:

Medical facts: The patient is a 70 year old 2ppd x 50 year smoker who has end-stage COPD. He lives in a 5 story apartment building with a close friend who provides supervision of his care in the home. His family visits him daily. He has been O₂ dependent for 7 years and requires 5L O₂ via nasal cannula continuously to maintain an O₂ saturation of 91%. His O₂ saturation drops below 90% within 2 minutes of removing the cannula and he becomes confused a few minutes thereafter. On room air his O₂ saturation is 80%. Some providers think that the risk he poses from hypoxia-induced confusion might be greater than the fire risk associated with smoking with oxygen. His case has been reviewed by the Home Oxygen Committee.

Staff report he has been declining overall – decreased strength, increased SOB, and problems with sleep due to SOB. One year ago he suffered a facial burn when he tripped over the O₂ equipment while smoking. He has continued to receive oxygen therapy since then and has had no repeat fires.

Mr. Doe has been determined to have capacity and was noted to have designated a health care agent in an advance directive signed on 1/12/2008 and scanned into his health record. He was

seen by psychology 2 months ago and was determined to have "functional memory difficulty vs. a primary memory d/o" and was considered to be functioning well with current supports in place.

Patient's preferences & interests: Mr. Doe says he wants to continue to smoke even though staff have encouraged him to consider smoking cessation programs. He knows that he is near the end of his life and O2 is a lifesaving treatment that he wants. He wants to be safe in his home and is willing to do whatever it takes to smoke as safely as possible. He has been compliant with the safety items that the team has discussed with him including using "No Smoking, Oxygen in Use" signs, testing and maintaining smoke alarms, and completing education regarding the hazards of smoking and using an open flame near oxygen. He has also been instructed by providers to "remove the cannula, shut- off the O2 supply, and wait for O2 to dissipate prior to smoking" but he does not do this because he gets short of breath and confused when he shuts his O2 off. Instead he says that he uses his hand to block the lit end of the cigarette away from cannula opening to make things safer. He wants to remain in his home because he is comfortable there and gets to see his family and friends often. However, he is willing to go to a LTC facility if his condition deteriorates to the point where he cannot manage at home.

Other parties' preferences & interests: The home care team is concerned about risk to third parties from a fire. They have thoroughly explained the risks and benefits of all of the choices to the patient. Several harm reduction strategies are in place: fire risk assessment and reassessment, educational and /or warning information every 6 months, assessment of compliance at least every 6 months, working smoke detectors, educational and /or warning information for patient and his family and friends. A "Home Oxygen Agreement" documents that the patient has made a deliberate choice with full knowledge of consequences. This agreement acknowledges that the patient has decision- making capacity and understands the risks of smoking in conjunction with home O2 therapy, that the provider has informed the patient of all relevant risks, and that the patient has signed it voluntarily.

The respiratory therapist reports that long term O2 therapy (LTOT) significantly enhances the length as well as quality of life for many patients, including Mr. Doe.

The friend who lives with him supports the patient's right to smoke and accepts the risk involved with smoking and O2. The patient's family does not like that he smokes, but accepts his choice.

Ethics Knowledge:

- The respiratory therapist reported that there is evidence in the literature that indicates that the increased risk of fire from use of O2 while smoking has been compared to other fire hazards, such as use of O2 while lighting candles or cooking with a gas stove.
- Hospital policy requires that patients are informed of an intervention's risks/benefits.
- Guidelines from the Home Oxygen Committee suggest that LTOT should not be denied based solely on the increased risk of fire cause by the presence of O2. The chief justifications for removal of or denial of beneficial O2 treatment are that the fire injury risk is substantial, immediate and likely. The guidelines also suggest that denial should be considered a last resort after all harm reduction techniques have failed.

Ethical Analysis:

The ethical dimensions of this case require providers to balance the patient's right to make choices about his behaviors and treatments with the risks to the patient or others as a result of behaviors and treatments. Specifically, they need to balance protecting the patient's right to smoke against the likelihood of possible harms from a fire if he smokes while using O2. The health care system's informed consent policy requires that patients are informed of an intervention's risks/benefits. When a patient on long term O2 therapy chooses to continue smoking, that patient assumes the risks of smoking with O2 at home. Through shared decision making, the providers have determined that the patient understands the risks and benefits of his choice to smoke while using O2, including the risks to others; avoided the use of coercion in the patient's choices; and took steps to reduce the risks to greatest degree possible using harm reduction strategies.

Health care providers have an obligation to offer treatments that are medically indicated as long as the risks do not outweigh the benefits. In this case, we have a capacitated patient with end stage COPD who is benefitting from the O2 but also choosing to smoke which adds an additional risk of fire. Guidelines suggest that LTOT should not be denied based solely on the increased risk of fire cause by the presence of O2. Substantial, immediate and likely danger of fire is the chief justification for removal of or denial of this beneficial treatment and denial should be considered a last resort after all harm reduction techniques have failed. Except for one incident in the past 7 years where the patient suffered a burn while smoking with his O2 in place, he has been able to be mitigate the risk of fire. This consultation also considers risks to third parties living in the apartment building. Denial based on risk to third parties may be justified if there are other factors demonstrating immediate substantial and likely risk such as repeated disregard of safety measures, advanced dementia, or irresponsible supervision. Terminating LTOT is only justified if all reasonable efforts to reduce the risk to acceptable levels have failed, and there is evidence that the risk of fire is substantial and immediate. "Substantial and immediate" means that the benefits of LTOT are outweighed by the high likelihood of fire related injury, and that the immediacy of risk to persons other than the patient is far greater than usual, based on the specific events of the case.

All parties involved in this discussion agree that the risk of fire is low. There is no compelling evidence that demonstrates the risk is "substantial and immediate." The consult team agreed that Mr. Doe has the right to decide to continue smoking and that the provider has the responsibility to determine whether LTOT should be prescribed given the case specific risk factors. The following options and why they were or were not ethically justifiable were considered:

1. Respect for a patient's autonomous decision requires that the patient be allowed to accept responsibility for the risk of unhealthy choices.
2. Continuing O2 therapy is ethically justifiable because it is clinically beneficial and the likelihood of risk of serious imminent harm to the patient or others is low.
3. Discontinuing O2 therapy is not ethically justifiable as the expected imminent death from lack of O2 is greater than the risk of harm to the patient or others. Furthermore, stopping O2 is not ethically justifiable since it is an important treatment that provides significant immediate benefit to the patient and he has not has a fire in many years.

117 Recommendations/Plans:

118 All agreed that the home care team should continue to provide O2 therapy and should engage in
119 ongoing periodic review of the patient's actions to mitigate fire risk.

120 1. The team is ethically justified in encouraging smoking cessation for the patient as long as it is
121 presented as a treatment option and it is not offered in a coercive manner.

122 2. The team should periodically assess the patient and perform rigorous safety assessments to
123 determine if the risk to the patient or others changes. If so, they should balance the patient's right
124 to make choices about his behaviors and treatments with the risks to the patient or others as a
125 result of behaviors and treatments and revise the treatment plan with the patient.

126 3. An additional safety measure would be to include, with the patient's permission, first
127 responders in the care decision. An attempt should be made to inform the local fire department of
128 patient's continued smoking with O2-not as punitive measure but as an added safety measure in
129 case of an emergency. A release of information (ROI) should be obtained from the patient and
130 sent to ROI office for processing.

Justification for Assessment

This case addresses the Key Elements well.

Ethics Question:

Positive features:

- Clearly defined the uncertainty/conflict over values and perspectives: potential harm to patient and others versus patient's right to treatment of his choosing

Could be improved:

- Identifying who holds said values and perspectives better - is the "treatment team" requesting the consult the primary care team or the home care team? Is the Nurse Practitioner requesting the consult the same nurse who is on the home care team?

Consultation-Specific Information:

Positive features:

- Collecting information first-hand from the patient and others involved in the case (members of home care team, respiratory therapist, friend of patient) to provide a holistic picture of the situation.
- Presenting information that is well organized, understandable, thorough, and relevant; includes medical consequences of removing the Veteran's oxygen, previous patient education and current harm reduction strategies, views of multiple stakeholders (not just Veteran and provider), capacity determination, etc.
- Including a very specific harm – facial burn from tripping over O2 equipment last year
- Including the patient's methods used to mitigate further harms.
- Explicitly noting the Veteran's preferences and interests, as well as his reasoning behind them.
- Specifically stating that Mr. Doe underwent an assessment and has capacity, leaving no doubt about the situation

Could be improved:

- Providing specific references from the literature about the effects of oxygen on length of life and quality of life (mentioned by the respiratory therapist)
- Providing more specific information about the home oxygen guidelines and the home oxygen committee.
- Exploring the interests/concerns of the oxygen delivery company and the level of involvement the friend has with the patient (i.e., has the friend observed the patient while smoking with oxygen?).

Ethical Analysis:

Positive features:

- Providing clear, complete, logical, well justified, balanced analysis that represents an accurate interpretation of ethics knowledge
- Clearly articulating arguments based on the proportionality of harm/benefit and identifying sources for the arguments (i.e., hospital policy, guidelines from Home Oxygen Committee, etc.).
- Examining the situation from many different viewpoints – Mr. Doe, his treatment team, Home O2 Committee, the Doe family, etc.
- Using appropriate ethical concepts, such as “shared decision making,” “avoid the use of coercion in the patient’s choices,” and “autonomous decision” that clearly link the situation with the theoretical concepts identified

Could be improved:

- Quoting or summarizing specific language from the informed consent policy
- Referencing specific sources that identify and support the assertion that O2 should be taken away only in the face of “substantial and immediate” risk

Conclusion and Recommendations:

Positive features:

- Writing clear recommendations about what to do (encourage cessation, revise treatment plan as necessary) and what not to do (taking O2 therapy would not be justified in this case).
- Correctly identifying the ethically appropriate decision maker Responding directly to the ethics question

Could be improved:

- Elucidating how the third recommendation involving local first responders would benefit the patient, others in the apartment building, etc.